



November 14, 2008

VIA FACSIMILE: (360) 457-8496
Ms. Carol Bernthal, Superintendent
Olympic Coast National Marine Sanctuary
Management Plan Review
115 Railroad Ave., Suite 301
Port Angeles, WA 98362

Dear Ms. Bernthal:

Friends of the Earth (FoE) offers the following comments to the Federal Register notice, "Initiation of Review of Management Plan/Regulations," Vol. 73, No. 179, September 15, 2008 ("Notice"), regarding the Olympic Coast National Marine Sanctuary's (Sanctuary) announcement of its first management plan review since its designation in 1994.

FoE is a national non-profit environmental organization whose dedicated staff fight to protect the rights of all people to live in a safe and healthy environment, both at home or in countries around the world. Our campaigns demonstrate our belief that the fight for justice and the movement to protect the health of the planet are part of the same struggle. We are part of the largest international environmental network of environmental organizations and have maintained a Northwest presence for over 30 years.

Our NW Consultant, Fred Felleman, was instrumental in developing the 1989 proposal that led to the Congressional designation of the Olympic Coast National Marine Sanctuary in 1994. He has closely followed the Sanctuary's progress since that time and has been involved in a variety of measures that have led to greater protection of Sanctuary resources apart from the designation, including: Lobbied Congress for the permanent ban on offshore oil and gas development instead of the 10 year moratorium originally proposed by the Sanctuary program; worked with the IMO to designate the Area to Be Avoided to extend the shipping lanes further offshore than what the Sanctuary originally called for; encouraged the Secretary of Interior to withdraw their permission for the Navy to use Sea Lion Rock within the Copalis National Wildlife Refuge as target practice despite the fact the Sanctuary grandfathered it in as a preexisting use; worked with the Makah Tribe to have the Coast Guard close the Makah Bay anchorage thereby reducing the number of ships that come near shore of the Sanctuary, which the original Management Plan viewed as a preexisting use despite its risk to Sanctuary resources; initiated the concept of the rescue tug in Neah Bay, which has responded to 41 ships in distress since its seasonal deployment in 1999; and worked with the Port of Seattle to amend the Cruise Ship MOU between the Port, Washington Department of Ecology and the NW Cruise Ship Association to prohibit the dumping of sewage sludge within Sanctuary waters. In addition, he helped organize the record public turnout to the scoping meeting the Sanctuary held that served to develop the original management plan that is now subject to review.

It is from this track record of success that we offer the following comments to further advance the protection of one of this nation's top marine habitats.

Finding I- It is disappointing to note the significant reduction in public attendance to the scoping meetings NOAA just completed on the current plan review despite the fact that over 15 years have elapsed since the original meetings were held. One would have hoped that public interest in the Sanctuary would have grown since that time not diminished especially as public awareness of environmental issues has increased. We are pleased to note that over 500 people responded to our action alert indicating that there is still interest in the Sanctuary.

We believe the Sanctuary's failure to build on the public support we helped create around the designation can be attributed to a combination of several issues. First, the Sanctuary has done a poor job of communicating with the public as to what you have been doing. The lack of a newsletter, compelling website or presence in the media has made for a stealth presence on the Peninsula. Second, instead of actively pursuing the high priority issues the public called for to be addressed primarily pertaining to enhanced oil spill prevention and response capabilities, the sanctuary has spent considerable time and resources pursuing issues surrounding underwater cables, and fisheries management issues, the latter being the one subject the public specifically called for the Sanctuary to stay away from. This is especially important when the Olympic Coast is the only Sanctuary in the country that has treaty-protected fisheries within its boundaries. Finally, the Sanctuary Advisory Council meetings are rarely attended by members of the public and the four coastal tribal governments who comprise the primary public constituency bordering the Sanctuary have felt the Sanctuary has been largely unresponsive to their interests.

Perhaps the most telling failure of the OCNMS to meaningfully engage a coastal constituency in matters pertaining to management of the Olympic coast marine environment is the fact that the Washington State legislature has found it necessary to create Marine Resource Committees (MRCs) for the coast like those created in the San Juans in lieu of designating a sanctuary there. One would have thought that if the SAC was engaged in a meaningful and inclusive manner that was integrated with the surrounding communities that the formation of coastal MRCs would be redundant.

Recommendation I - The Sanctuary needs to prioritize a public outreach strategy that includes at minimum a quarterly electronic newsletter that is sent to the public as well as to the press, a regularly updated website with information about the latest Sanctuary research findings and education opportunities. In addition, the Sanctuary Advisory Council (SAC) needs to find ways to be more relevant to their coastal constituents by making their meetings more accessible to the public and to invite members of the public to make presentations to inform them of their interests and concerns. The SAC itself needs to review its charter. Rather than just responding to questions posed by the Superintendent, the SAC should be bringing issues to the attention of the Sanctuary and encouraging them to engage in the discussion. When the SAC does write the Superintendent with a requested action, the Sanctuary needs to do more than just pass on the SAC's letter with a disclaimer that it does not reflect the views of the Sanctuary. Instead, the Sanctuary should apply its technical and political prowess to the issue the SAC brings to its attention. Otherwise, the SAC offers members of the public little sense of meaningful contribution to the management of Sanctuary resources. The non-regulatory benefits of enhanced coordination and education due to Sanctuary designation are often promoted as being more important than the regulatory ones. Clearly more can be done to fulfill this basic program mandate in Washington.

Finding II - The original management plan stated that it was “the highest priority of the research agenda to complete a site profile within the first five years of designation.” This highest priority site profile was supposed to “form the foundation for the contingency plan, regulatory regime, and education and research programs on natural resource abundance, characteristics, and processes for the area.” Unfortunately, the Olympic Coast is still without an environmental sensitivity atlas for oil spill planning and has the fewest Geographic Response Plans (GRPs) of any marine environments in Washington despite being amongst the most productive. The challenges associated with responding to coastal oil spills has led to a liberalization of the use of dispersants. However, in order to make an informed decision as to the tradeoffs associated with dispersant use there needs to be an understanding of the fish and planktonic organisms that may be impacted by dispersant applications.

Recommendation II - Sanctuaries should be places where basic long-term natural resource monitoring is done as a consequence of designation. At a minimum NOAA should be archiving their own satellite data to track seasonal changes in temperature and primary productivity in the nation’s 13 Sanctuaries, but this is not done. These data will enable the Sanctuary program to provide an archive of the impacts global climate change is having on our nation’s marine habitats. NOAA needs to invest in technology that would enable the Sanctuary to efficiently assess the seasonal occurrence of marine organisms in the water column for the development of a dispersant use matrix. Shoreline characterizations need to be completed for the development of an environmental sensitivity atlas that would be helpful in Natural Resource Damages Assessments as well. It seems unfortunate that NOAA has to spend its limited resources in mapping the bottom of the Sanctuary when the Navy already possesses these data but will not make them available and then prohibits NOAA from making their results public as well. NOAA needs to seek from the Navy an analysis of their bottom mapping that enables the Navy to protect classified information while allowing NOAA to better define the nature of the benthic habitat.

Finding III – There is a primordial feeling about the Olympic Coast having been spared much of the impacts of our nation’s more populated coastlines. However, increasing numbers of vessels bound to and from the nation’s third largest port complex of Seattle and Tacoma and Canada’s largest port of Vancouver ply its waters posing significant risks of oil spills and sewage discharges. Puget Sound is also host to one of the nation’s top 10 high volume oil ports, the world’s third largest Naval Complex, and a booming cruise ship homeport. Three of the largest persistent oil spills in Washington State history totaling approximately 3 million gallons have occurred within the Sanctuary’s boundary. The risk of a spill continues to increase as the Ports of Seattle, Tacoma and Vancouver continue to expand as trade volume is predicted to triple in the next 15-20 years.

In addition, Puget Sound is host to the world’s third largest Naval Complex whose fleet utilizes the entire outer coast for exercises and has initiated NEPA review on their expansion plans. Despite the fact the Navy was responsible for the largest spill in the State in 1972 while the nuclear submarines USS Topeka and USS Nevada separated oil barges from their tows in 2003 and 2006, respectively, the Navy still has no spill response capability off the Coast.

The original 1994 Management Plan reflects this concern. One of the four “priority tasks” identified to be addressed within five years after designation was to “coordinate with the U.S. Coast Guard to conduct an emergency response drill to assess the state of preparedness to respond to an emergency within, or in close proximity to, the Sanctuary, and generate a plan to address inadequacies.” There has been only one no-notice oil spill deployment drill in the Sanctuary in its lifetime that failed to meet the call-out timeframe. Far more needs to be done before the Sanctuary can claim this issue has been addressed or before the Sanctuary can provide a “neutral” rating for this significant and increasing threat in its Condition Report.

Since 1999 when the US Navy initiated the Neah Bay rescue tug, the Washington State Legislature has funded the tug for portions of the year to assist vessels in distress. The Neah Bay Tug has been called out 41 times in the past 9 years (http://www.ecy.wa.gov/programs/spills/response_tug/tugresponsessince1999.htm). However, funding for the tug runs out next year. The Sanctuary itself has yet to formally support the tug in writing despite the fact that the SAC wrote a letter supporting continuation of the tug’s presence. In fact, the transmittal of the Advisory Committee’s letter included a cover memo that specifically disaffiliated the Sanctuary from the comments.

Recommendation III – The Sanctuary needs to formally express its support in writing to Congress and the Washington State legislature for the permanent year-round presence of a multi-mission tug with spill response, fire fighting and salvage capability in Neah Bay to protect the Sanctuary from the devastating impacts of a catastrophic oil spill.

The Sanctuary needs to work with the Coast Guard, Washington Department of Ecology, oil spill response contractors and coastal tribes to conduct regular oil spill drills and exercises in the Sanctuary including the tug and to assure that the gear stockpiled along the coast is appropriate for the operating conditions and can be called out in a timely fashion.

Finding IV- The increasing frequency of cruise ships with their significant levels of grey and black water discharges in Sanctuary waters needs to be addressed in the Management Plan. The Sanctuary Advisory Council advocated for the prohibition of sludge dumping within Sanctuary boundaries in 2004. In a May 25, 2007 amendment to the Memorandum of Agreement between the Northwest Cruise Ship Association, the Washington Department of Ecology and the Port of Seattle, the discharge of sewage sludge was officially prohibited within the Sanctuary boundaries. However, both black water and grey water sewage is still allowed to be discharged within Sanctuary boundaries. This effluent can become concentrated by the Juan de Fuca eddy and cause harmful algal blooms and hypoxia. The California Sanctuaries [Cordell Bank, Gulf of the Farallones and Monterey Bay] have recently completed an environmental impact statement that found no significant impact to prohibiting all cruise ship discharges within these Sanctuaries (Docket ID No. 080302355-8413-01).

Recommendation IV - The Olympic Coast Sanctuary should utilize the findings from the recently completed EIS for the Northern California Sanctuaries to similarly ban all vessels greater than 300 gross tons from discharging their grey and black water within Sanctuary waters.

Finding V - The Navy's is proposing to expand the Quinault Training Range in the Sanctuary from 48.3 square nautical miles to 1,840, including a new 7.8 square nautical mile surf zone on Olympic National Park (http://www.keyport.kpt.nuwc.navy.mil/EIS_Home.htm). The Navy currently has no oil spill response capability along the coast despite being the source of the State's largest spill and efforts to recovery the endangered southern resident killer whale community could be significantly set back if Navy sonar operations are allowed to expand.

Recommendation V – The Sanctuary should formally support the findings of the SAC to oppose the Navy's expansion of its operations in the Sanctuary and Olympic National Park unless significant enhancements are made to the proposed mitigations.

Finding VI – NOAA is actively promoting the expansion of offshore aquaculture in National Marine Sanctuaries. Rearing of high trophic level species requires considerable feed and results in significant amounts of nutrients added to the environment. In addition, large offshore pens serve as an attractive nuisance to marine predators and pose the risk of spreading disease to wild stocks as well as for the potential of biological pollution from escapees.

Recommendation VI - The Sanctuary should formally oppose the citing of offshore aquaculture within the boundaries of the Olympic Coast National Marine Sanctuary.

In closing, it is hoped that the Sanctuary could spend less time going through a full environmental impact statement and focus on meeting the objectives of the original management plan. It is our belief that you could simply adopt the findings of the California Sanctuary's EIS on their vessel discharge ban and apply it to the Olympic Coast given that the length of transit is shorter in Washington than California. In addition to banning cruise ship discharges in the Management Plan the Sanctuary needs to rededicate itself to informing the public about the natural wealth that lies off the coast, enhance our region's ability to prevent and respond to oil spills and conduct research that helps to inform fisheries management rather than including fishing within the scope of regulations as you told the public when the Sanctuary was first designated.

Sincerely,

Fred Felleman, Msc.
NW Consultant
Friends of the Earth
3004 NW 93rd St.
Seattle, Washington 98117

A handwritten signature in dark ink, reading "John Kaltenstein". The signature is fluid and cursive, with the first name "John" and last name "Kaltenstein" clearly legible.

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